

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

GREAT WESTERN INSURANCE COMPANY,

Plaintiff,

v.

MARK GRAHAM, et. al.,

Defendants.

No. 18 CV 6249 (VSB)

**THE SRC DEFENDANTS’
NOTICE OF MOTION TO
DISMISS COUNTS TWO
THROUGH EIGHT AND
ELEVEN OF PLAINTIFF’S
FIRST AMENDED COMPLAINT**

PLEASE TAKE NOTICE that, upon the accompanying Declaration of Michael S. Gordon in Support of the SRC Defendants’ Motion to Dismiss, dated October 31, 2018, and the associated exhibits attached thereto; the Memorandum of Law in Support of the SRC Defendants’ Motion to Dismiss Counts Two Through Eight and Eleven of Plaintiff’s First Amended Complaint, dated October 31, 2018 submitted herewith, and upon all the papers and proceedings heretofore had herein, defendants Donald Solow; Regatta Holdings, LLC; Cygnet 001 Master Trust; Cygnet 001 Master Trust Series 2011-A; Cygnet 001 Master Trust Series 2011-C; and Cygnet 001 Master Trust Series 2013-A (collectively, the “SRC Defendants”) will move this Court before the Honorable Vernon S. Broderick, located in Room 518, at the Thurgood Marshall United States Courthouse, 40 Foley Square, New York, New York 10007, at a date and time to be directed by the Court, for an Order, pursuant to Federal Rules of Civil Procedure 8(a), 9(b), and 12(b)(6), as well as the Private Securities Litigation Reform Act of 1995, 18 U.S.C. § 1964(c), granting the SRC Defendants’ motion to dismiss with prejudice the following claims in the First Amended Complaint of plaintiff, Great Western Insurance Company (“Plaintiff”), dated October 4, 2018 (Dkt. No. 69): (i) Count Two for Aiding and Abetting Breach of Fiduciary Duty; (ii) Count Three for Fraud; (iii) Count Four for Aiding and Abetting Fraud; (iv) Count Five for Violation of the Racketeer Influenced Corrupt Organizations Act (“RICO”), 18 U.S.C.

§ 1962(c); (v) Count Six for Violation of RICO, 18 U.S.C. § 1962(a); (vi) Count Seven for Violation of RICO, 18 U.S.C. 1962(d); (vii) Count Eight for Civil Conspiracy to Commit Fraud; and (viii) Count Eleven for Unjust Enrichment.

Date: October 31, 2018
New York, New York

Respectfully submitted,

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TO: All Counsel of Record